

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TZVI WEISS, ET AL.,

Plaintiffs,

-against-

NATIONAL WESTMINSTER BANK PLC.,

Defendant.

ORDER GOVERNING
INITIAL CONFERENCE
AND NOTICE OF
MANDATORY
PARTICIPATION IN
ELECTRONIC CASE FILING

05-CV-4622 (CPS)

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MATSUMOTO, United States Magistrate Judge:

An initial conference will be held in the above-captioned case on December 2, 2005 at 12:00 p.m. before Kiyo A. Matsumoto, United States Magistrate Judge, at the United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York. All counsel (and any *pro se* parties) must be present. The parties should check in with Chambers at Room 208 in advance of the conference and may be directed to a courtroom. **Counsel for plaintiff(s) is responsible for confirming with each defendant's counsel (or *pro se* defendant) that the necessary participants are aware of this conference.**

Plaintiff shall effect service of process in accordance with Rule 4 of the Federal Rules of Civil Procedure and promptly file the returns of service with the Clerk at least one week prior to the initial conference. Plaintiff's counsel is to notify the undersigned, in writing, at least three business days before the scheduled conference if an answer has not been filed. If not every defendant named in the complaint has appeared and counsel believes that the initial conference would not be productive without participation of any such defendant, plaintiff's counsel should

promptly submit a written request for an adjournment, at least forty eight (48) hours before the scheduled conference, explaining the reasons for adjournment and the status of service and joinder, and serve a copy on all defendants.

No request for adjournment will be considered unless made in writing at least forty-eight (48) hours prior to the scheduled conference and only after the parties have consulted with each other and have agreed on several alternate dates. The party seeking the adjournment shall first file the adjournment request by Electronic Case Filing (ECF), explained below, and may thereafter transmit such adjournment request to Chambers by facsimile at (718) 797-7386. Faxed submissions should not also be mailed.¹

At least two business days prior to the initial conference, the parties shall discuss the matters specified in Federal Rule of Civil Procedure 26(f) and complete the attached Questionnaire. No written report or discovery plan specified by Rule 26(f) need be filed via ECF, but the completed Questionnaire shall be brought to the conference. At least two business days prior to the Rule 26(f) discussion between the parties, the parties shall exchange the mandatory initial disclosures required by Rule 26(a)(1). If plaintiff(s) seek(s) damages for personal injuries allegedly caused by defendant(s), plaintiff(s) must provide signed authorizations for releases of all pertinent records from medical service providers, employers and all other sources with information relating to damages.

The parties shall also discuss (1) the scope of any anticipated electronic discovery, the preservation of electronically stored data, and the cost of locating, maintaining and producing

¹For additional information, the parties are advised to consult the undersigned's Individual Chamber's Practices, available at:
<http://www.nyed.uscourts.gov/pub/rules/KAM-MLR.pdf>

the data, and (2) whether any party will rely upon expert testimony, and if so, whether counsel are able to reach an agreement on how material exchanged between counsel and any expert witness will be treated, and in particular, whether draft expert reports and written electronic communications between expert witnesses and counsel will be retained.

At the initial conference, counsel must be **fully prepared** to discuss any issue regarding this case, including personal and subject matter jurisdiction, venue, schedules for pretrial matters, potential discovery disputes, insurance coverage and settlement. If this case is referred to Court-Annexed Arbitration before the conference, the parties may request in writing either to cancel the initial conference or to attend the conference by telephone, provided they make the arrangements for a conference call.

By Administrative Order 2004-08, dated June 22, 2004, beginning on August 2, 2004, ECF is mandatory for all civil cases, other than *pro se* cases, and for all criminal cases. All counsel shall register for ECF in this case. There is no charge to participate. ECF enables both the Court and litigants immediately to file, serve and receive documents electronically, including pleadings, motions, correspondence and orders. Any document filed via ECF is deemed served on all other parties required to participate in ECF and all counsel of record will receive a notice by email of such filing. It is the responsibility of the parties to regularly monitor the status of their cases to avoid missing deadlines and court appearances.

Requests by attorneys for an exemption to the mandatory ECF policy must be submitted to the undersigned magistrate judge within two weeks of the date of this Order, and must set forth good cause hardship reasons which state the specific technological or other reason why counsel is unable to participate in ECF. Before seeking a hardship exemption, attorneys

must participate in the training program or otherwise seek assistance from the Clerk's Office. A user's manual is available through the Clerk's Office, or at the Court's website at <http://www.nyed.uscourts.gov>. Free training can be arranged for attorneys and their staff at any of the Eastern District courthouses.

Counsel of record who do not seek a hardship exemption to ECF must register for ECF within one week of the date of this Order. For counsel's convenience, the registration form is attached. If there are other attorneys in the firm who will also be working on this case, such attorneys should promptly file a notice of appearance and register for ECF in this case so that they may receive ECF notices.

SO ORDERED.

Dated: Brooklyn, New York
October 3, 2005

/s/
KIYO A. MATSUMOTO
UNITED STATES MAGISTRATE JUDGE
(718) 797-7380

INITIAL CONFERENCE QUESTIONNAIRE

1. If not yet made, date for completion of automatic disclosures required by Rule 26(a) of the Fed. R. Civ. P.: _____ or
Proposed changes in timing, form or requirements for disclosure: _____
2. If additional interrogatories beyond the 25 permitted under the Rule 26 are needed, the total number by: plaintiff(s) _____ and defendant(s) _____
3. Maximum number of requests for admission by: plaintiff(s) _____ and defendant(s) _____
4. Number of depositions by plaintiff(s) of: parties _____ non-parties _____
5. Number of depositions by defendant(s) of: parties _____ non-parties _____
6. Maximum length of each deposition if longer than 7 hours _____ non-party _____
7. Date for completion of factual discovery: _____
8. Number of expert witnesses of plaintiff(s): _____ medical _____ non-medical
Date for expert report(s): _____
9. Number of expert witnesses of defendant(s): _____ medical _____ non-medical
Date for expert report(s): _____
10. Dates for completion of expert discovery: _____
11. Time for amendment of the pleadings by plaintiff(s) _____ or by defendant(s) _____
12. Number of proposed additional parties to be joined by plaintiff(s) _____ and defendant(s) _____ and time for completion of joinder: _____
13. Types of contemplated dispositive motions: _____
 - a. Dates for filing contemplated dispositive motions: _____
14. Have counsel reached any agreements regarding electronic disclosure of communications with experts? If so, describe at the initial conference.
15. The parties are advised that they may consent to trial, including a jury trial, before a Magistrate Judge pursuant to 28 U.S.C. § 636(c). They should be prepared to advise the Court whether they consent upon the conclusion of discovery.

United States District Court for the Eastern District of New York

ECF**Registration Form - Page 1**<http://www.nyed.uscourts.gov>

[Please type]

Person Information:

Last Name:	Generation (i.e. Jr., Sr., II, III):
First Name:	Middle Name:
Title (i.e. attorney):	Date of Birth:
Last Four Digits Of Your Social Security Number:	
Are you admitted to the bar of the EDNY and, if so, are you a member in good standing? _____ Yes _____ No	

Office Information:

Office:		
Address 1:		
Address 2:		
Address 3:		
City:	State:	Zip Code:
County:	Country:	Telephone No: ()

User Information:

Law Firm's Email Address:
Individual's Email Address:
Telephone Number: ()
Fax: ()

United States District Court
Eastern District of New York

ECF Registration - Page 2

By submitting this form the undersigned agrees to abide by the following rules:

1. This System is for those cases designated by the Court for electronic filing. Use the login and password the Court issues *to electronically file* documents. Use your firm's Pacer login and password *to view* docket sheets or *to view* electronically filed documents.
2. Documents must be submitted electronically only in Portable Document Format (**PDF**).
3. The combination of user identification and password will serve as the signature of the attorney / participant filing the documents. Individuals must protect the security of their passwords and immediately notify the Court if they suspect that their password has been compromised.

Applicant's Signature

Dated: _____

Return your completed form by mail, fax or e-mail to one (1) of the persons listed below:

Ms. Evelyn Levine
Training Specialist
225 Cadman Plaza East, Room 105
Brooklyn, New York 11201
Telephone No.: (718) 260-2312
Fax: (718) 260-2264
Email: Evelyn_Levine@nyed.uscourts.gov

Ms. Carol McMahon
Administrative Supervisor
United States Federal Courthouse
100 Federal Plaza
Central Islip, New York 11722-4438
Telephone No.: (631) 712-6031
Fax: (631) 712-6043
Email:
[Carol McMahon@nyed.uscourts.gov](mailto:Carol_McMahon@nyed.uscourts.gov)